## UNITED STATES DISTRICT COURT FOR THE DISTRICT OF MASSACHUSETTS

IN RE PHARMACEUTICAL INDUSTRY
AVERAGE WHOLESALE PRICE
LITIGATION

Master File No. 01-CV-12257-PBS
Subcategory No. 06-CV-11337-PBS

THIS DOCUMENT RELATES TO:
United States of America ex rel. Ven-A-Care of the Florida Keys, Inc., et al. v. Boehringer
Ingelheim Corporation, et al., Civil Action No. 07-10248-PBS

MDL No.1456

Master File No. 01-CV-12257-PBS
Subcategory No. 06-CV-11337-PBS

Magistrate Judge Marianne B. Bowler

## DECLARATION OF JOHN W. REALE IN SUPPORT OF THE ROXANE DEFENDANTS' MOTION FOR A FINDING OF SPOLIATION OF EVIDENCE AND FOR SANCTIONS

- 1. I am a member of the law firm of Kirkland & Ellis LLP, counsel for the Roxane Defendants in the above-captioned action. I am admitted to practice law in the Commonwealth of Massachusetts.
- 2. Attached to The Roxane Defendants' Memorandum in Support of Their Motion For a Finding of Spoliation of Evidence and For Sanctions ("Roxane Defendants' Memorandum") as Exhibit A is a true and correct copy of The Roxane Defendants' Memorandum in Support of Their Motion For Summary Judgment (Docket No. 6200).
- 3. Attached to the Roxane Defendants' Memorandum as Exhibit B is a true and correct copy of the Corrected Roxane Local Rule 56.1 Statement of Undisputed Material Facts in Support of Motion For Summary Judgment (Docket No. 6207).
- 4. Attached to the Roxane Defendants' Memorandum as Exhibit C is a true and correct copy of excerpts from the transcript of the deposition of Cheryl Eiler, taken on August 26, 2008, in the above-captioned action.

- 5. Attached to the Roxane Defendants' Memorandum as Exhibit D is a true and correct copy of excerpts from the transcript of the deposition of Carolyn Helton, taken on March 13, 2008, in the above-captioned action.
- 6. Attached to the Roxane Defendants' Memorandum as Exhibit E is a true and correct copy of excerpts from the transcript of the deposition of Robin Kreush Stone, taken on February 28, 2008, in the above-captioned action.
- 7. Attached to the Roxane Defendants' Memorandum as Exhibit F is a true and correct copy of excerpts from the transcript of the deposition of Robin Kreush Stone, taken on February 29, 2008, in the above-captioned action.
- 8. Attached to the Roxane Defendants' Memorandum as Exhibit G is a true and correct copy of excerpts from the transcript of the deposition of Cheryl Eiler, taken on September 23, 2008, in the above-captioned action.
- 9. Attached to the Roxane Defendants' Memorandum as Exhibit H is a true and correct copy of Roxane Exhibit 118, pricing arrays produced by the Administra DMERC.
- 10. Attached to the Roxane Defendants' Memorandum as Exhibit I is a true and correct copy of excerpts from the transcript of the deposition of Cheryl Eiler, taken on August 27, 2008, in the above-captioned action.
- 11. Attached to the Roxane Defendants' Memorandum as Exhibit J is a true and correct copy of the Bates-numbered page AWP039-2444, which was produced by the Adminastar DMERC.

I declare under penalty of perjury that the foregoing is true.

Dated: July 9, 2009
Chicago, Illinois

Respectfully submitted,

/s/ John W. Reale

John W. Reale (BBO# 654645)

## **CERTIFICATE OF SERVICE**

I certify that a true and correct copy of the foregoing was delivered to all counsel of record by electronic service pursuant to Paragraph 11 of Case Management Order No. 2, by sending on July 9, 2009, a copy to LexisNexis File and Serve for posting and notification to all parties.

/s/ John W. Reale John W. Reale